

REMARKS

The following remarks are in response to the Official Action mailed April 3, 2006.

In the Official Action claim 1-10 are rejected under 35 U.S.C. §112 second paragraph, as being indefinite. In addition, claims 1-4 and 10 are rejected under 35 U.S.C. §102(b) as being anticipated by Japanese patent number 285146. Claims 1 and 4-9 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,863,899 to Werner.

In order to clarify the present invention, Applicant has canceled claims 1-10 and submits herein newly added claims 11-20, claim 11 being the only independent claim.

Independent claim 11 of the present application includes the recitation of a safety device having a first safety post, a second safety post and at least one safety rail extending therebetween. The first and second safety post are positioned adjacent upright posts of a scaffold. In this manner, the safety rail provides personal safety while assembling and disassembling the scaffold. Each of the safety posts includes coupling devices for engaging interconnection posts of the scaffold. The interconnection posts extend between two upright posts to thereby provide stability to the scaffold. The safety device further includes actuation elements for switching the coupling devices between a coupling position and a release position. The actuation elements are disposed proximate first ends of each of the safety posts.

Japanese Patent No. 285,146 discloses a protective hand rail, which may be attached to a scaffold pipe. The coupling device that connects the protective handrail includes a hook lever 4, a torsion spring 7 and a wire 8, all of which are attached to an L-shaped bracket. When the lateral pipe is positioned within the L-shaped bracket, the torsion spring 7 may be tightened using the wire 8 to thereby clamp hook 4 onto the

lateral pipe. Thus, the purpose of Japanese Patent No. 285,146 is to mount and de-mount a protective handrail to a scaffold pipe. There is no mention that the protective handrail includes a first safety post, a second safety post as well as safety rails extending therebetween. Nor is there a discussion that a first safety post and a second safety post are attached to uprights of a scaffold by a coupling device. Thus, Applicant asserts that newly added claim 11 as well as dependent claims 12-20 of the present application are patently distinct over Japanese Patent No. 285,146 and should be allowed.

Similarly, *Werner* discloses a removable guard rail, which has a completely different structure than the present invention. *Werner* is disposed onto a platform after a scaffold and particularly the platform of the scaffold has been assembled. At no time does *Werner* mention that the removable guard rail may be attached to upright posts of a scaffold nor does *Werner* disclose that the guard rail includes actuation elements disposed at first ends of first and second safety posts. The guard rail of *Werner* may be attached to the platform using various stanchions that include tubular members 26 and U-shaped elements 33. The U-shaped elements 33 are disposed adjacent the platform and securely attached thereto. The guard rail is then mounted on the stanchion with a hook section 18 extending outwardly from the guard rail. The hook section includes a bent section 21 that is disposed within a top aperture of a stanchion, which thereby holds the guard rail relative to the platform. Thus, *Werner* never mentions an actuation element, which can cause a coupling device to switch from a coupling position to a release position so as to connect or disconnect the safety device to parts of a scaffold. In addition, as already mentioned, independent claim 11 includes the limitation that the coupling devices of the safety device are attached to an interconnection post. *Werner* simply

discloses a guard rail attached to stanchions that are disposed on a platform. Thus, Applicant asserts that claim 11 as well as its dependent claims 12-20 are patently distinct over Werner and should be deemed allowed.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

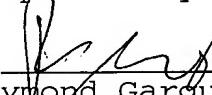
If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: July 31, 2006

Respectfully submitted,

By


Raymond Garguilo, Jr.

Registration No.: 50,930
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant